

(b) Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

[71 FR 63123, Oct. 27, 2006, as amended at 73 FR 79702, Dec. 30, 2008]

§ 227.11 Responsibility for compliance.

Although the duties imposed by this part are generally stated in terms of the duty of a railroad, any person, including a contractor for a railroad, who performs any function covered by this part must perform that function in accordance with this part.

§ 227.13 Waivers.

(a) A person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver under this section must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions the Administrator deems necessary.

§ 227.15 Information collection.

(a) The information collection requirements of this part were reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and are assigned OMB control number 2130-NEW.

(b) The information collection requirements are found in the following sections: §§ 227.13, 227.103, 227.107, 227.109, 227.111, 227.117, 227.119, and 227.121.

Subpart B—Occupational Noise Exposure for Railroad Operating Employees.

§ 227.101 Scope and applicability.

(a) This subpart shall apply to the noise-related working conditions of—

(1) Any person who regularly performs service subject to the provisions of the hours of service laws governing “train employees” (see 49 U.S.C. 21101(5) and 21103), but, subject to a railroad's election in paragraph (a)(3) of this section, does not apply to:

(i) Employees who move locomotives only within the confines of locomotive repair or servicing areas, as provided in §§ 218.5 and 218.29(a) of this chapter, or

(ii) Employees who move a locomotive or group of locomotives for distances of less than 100 feet and this incidental movement of a locomotive or locomotives is for inspection or maintenance purposes, or

(iii) Contractors who operate historic equipment in occasional service, provided that the contractors have been provided with hearing protectors and, where necessary, are required to use the hearing protectors while operating the historic equipment;

(2) Any direct supervisor of the persons described in paragraph (a)(1) of this section whose duties require frequent work in the locomotive cab; and

(3) At the election of the railroad, any other person (including a person excluded by paragraph (a)(1) of this section) whose duties require frequent work in the locomotive cab and whose primary noise exposure is reasonably expected to be experienced in the cab, if the position occupied by such person is designated in writing by the railroad, as required by § 227.121(d).

(b) Occupational noise exposure and hearing conservation for employees not covered by this subpart is governed by the appropriate occupational noise exposure regulation of the U.S. Department of Labor, Occupational Safety and Health Administration located at 29 CFR 1910.95.

§ 227.103 Noise monitoring program.

(a) *Schedule.* A railroad shall develop and implement a noise monitoring program to determine whether any employee covered by the scope of this subpart may be exposed to noise that may equal or exceed an 8-hour TWA of 85 dB(A), in accordance with the following schedule:

(1) Class 1, passenger, and commuter railroads no later than February 26, 2008.